STATE OF MICHIGAN

COURT OF APPEALS

AAA INVEST,

Plaintiff,

and

WILLIAM AGBORUCHE,

Intervening Plaintiff-Appellant,

v

ALVIN TAYLOR,

Defendant-Appellee,

and

CHASE MANHATTAN BANK, as Trustee of IMC HOME EQUITY LOAN TRUST 1998-5,[1]

Defendant.

UNPUBLISHED
April 24, 2007

No. 265266
Wayne Circuit Court
LC No. 03-337391-CH

AAA INVEST,

Plaintiff-Appellant,

and

WILLIAM AGBORUCHE,

Intervening Plaintiff,

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[1] Defendant Chase Manhattan Bank, the mortgagee of the property at issue, did not participate in the proceedings below and is not involved in this appeal. A default judgment was entered against Chase Manhattan on January 7, 2004. For ease of reference, this opinion refers to Taylor as merely "defendant."

v

ALVIN TAYLOR,

Defendant-Appellee,

and

CHASE MANHATTAN BANK, as Trustee of IMC HOME EQUITY LOAN TRUST 1998-5,

Defendant.

No. 265326
Wayne Circuit Court
LC No. 03-337391-CH

Before: Owens, P.J., and Neff and White, JJ.

PER CURIAM.

In these consolidated appeals, intervening plaintiff William Agboruche, d/b/a General Assets Company, and plaintiff AAA Invest appeal as of right the trial court's order denying Agboruche's motion for reconsideration of an order to set aside a judgment of tax foreclosure against defendant, Alvin Taylor, and granting Taylor's motion to dismiss AAA Invest's complaint. We affirm.

I

This case presents a unique circumstance of an overlap between statutory provisions for the foreclosure and sale of real property for delinquent 1998 property taxes under the former provisions of the General Property Tax Act, MCL 211.1 *et seq.*, and new statutory provisions for forfeiture and foreclosure for delinquent 1999 property taxes on the same parcel. The question is whether AAA Invest may avail itself of former GPTA provisions for governmental foreclosure and a six-month redemption period with respect to delinquent 1999 taxes, on the basis that AAA Invest held a tax lien for defendant's property for delinquent 1998 taxes, even though defendant redeemed the 1998 delinquency. We find no authority to support AAA Invest's claim of title to the property derived from the former GPTA provisions for governmental foreclosure and sale of tax delinquent properties.

II

In 2001, real property owned by defendant became subject to a tax lien sale by the Wayne County Treasurer for nonpayment of 1998 property taxes, pursuant to former provisions under the GPTA, applicable to property taxes levied before January 1, 1999. AAA Invest purchased the tax lien on defendant's property at a public sale on May 1, 2001, for $3,200.25, the amount of unpaid 1998 taxes, interest, and charges, and properly recorded its interest with the county. When defendant failed to redeem the 1998 tax delinquency within one year, by May 1, 2002, AAA Invest was issued a tax deed for the property.

On March 1, 2001, defendant's property was also forfeited for nonpayment of the 1999 property taxes, in accordance with the new statutory scheme for tax foreclosure enacted by 1999 PA 123. The new scheme eliminated the government's sale of tax liens, as well as the issuance of tax deeds, and supplanted a shortened reversion process for tax-delinquent property, in effect, creating an overlap between the former and new reversion processes.

In accordance with the new statutory scheme, AAA Invest, as a party of interest in defendant's property, received notice of a show cause hearing and a judicial foreclosure hearing due to unpaid 1999 taxes for the property. On March 10, 2002, a judgment of foreclosure was entered by the circuit court for delinquent 1999 property taxes, which provided for a 21-day final redemption period before absolute title to defendant's property vested in the county. On March 25, 2002, to protect its interest in the property, AAA Invest redeemed the property by paying the 1999 taxes, plus interest and fees, in the amount of $3,979.42. Accordingly, under the new foreclosure scheme, AAA Invest received a statutory redemption lien on defendant's property pursuant to MCL 211.78g(5) with respect to the 1999 taxes, and immediately recorded its interest with the county.

On May 13, 2003,[2] defendant paid the amounts due for the delinquent 1998 property taxes to the county treasurer, thereby redeeming the property and voiding the tax deed held by AAA Invest. However, on November 12, 2003, AAA Invest filed the complaint in this action seeking foreclosure and sale of defendant's property to satisfy its "tax lien" for 1999 taxes.[3] Because defendant failed to answer the complaint, a default was entered on January 7, 2004.[4] The court granted plaintiff's motion for entry of a judgment of foreclosure, directing that the property be sold at a public auction to satisfy the amount due to AAA Invest for the 1999 property taxes, plus interest and costs, and further directing that defendant was entitled to redeem the property within six months of the date of sale.

Defendant's property was sold on May 11, 2004, to Agboruche for $6,730.87. On December 4, 2004, Agboruche filed a motion in district court for a writ of assistance to take possession of defendant's property on the basis that the statutory period of redemption had expired November 12, 2004. Thereafter, defendant filed a motion in circuit court to stay the writ of assistance proceedings and also filed a motion to set aside the judgment. On May 11, 2005, the circuit court entered an order to set aside the February 13, 2004, property tax foreclosure, the order confirming report of judicial sale, and the default judgment. The court stayed the collateral proceedings between Agboruche and defendant, and ordered defendant to answer the complaint. The court also granted Agboruche's motion to intervene.

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[2] There is a discrepancy in the record regarding whether defendant redeemed the property on May 13, 2003, or May 3, 2003, but this minor discrepancy is not germane to the issues on appeal.

[3] Plaintiff AAA Invest also alleged a count of unjust enrichment.

[4] According to defendant, he was told by the mortgagee, Chase Manhattan, that the 1999 taxes were paid and not to worry about it.

Defendant later filed a motion for dismissal of the original complaint, and Agboruche filed a motion for reconsideration. The trial court granted Agboruche's motion for reconsideration and granted a hearing to revisit the tax foreclosure issue. Following a hearing, the trial court concluded that no palpable error was made regarding the decision to set aside the tax foreclosure. The court dismissed the complaint, concluding that AAA Invest had a tax lien, but title never vested in the county, so there were no further foreclosure proceedings to take place. On August 30, 2005, the trial court entered an order denying Agboruche's motion for reconsideration and granting defendant's motion for dismissal of the complaint, and ordering defendant to reimburse "plaintiffs"[5] for the taxes, with interest.

III

Plaintiffs argue that the trial court erred in setting aside its judgment for property tax foreclosure, the order confirming report of judicial sale, and the default judgment, and thereafter dismissing the complaint. We disagree.

"A trial court's decision on a motion to set aside a prior judgment is discretionary and will not be reversed on appeal absent an abuse of discretion." *Heugel v Heugel*, 237 Mich App 471, 478; 603 NW2d 121 (1999). MCR 2.612(C)(1) provides:

> (1) On motion and on just terms, the court may relieve a party or the legal representative of a party from a final judgment, order, or proceeding on the following grounds:
>
> (a) Mistake, inadvertence, surprise, or excusable neglect.
>
> (b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under MCR 2.611(B).
>
> (c) Fraud (intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.
>
> (d) The judgment is void.
>
> (e) The judgment has been satisfied, released, or discharged; a prior judgment on which it is based has been reversed or otherwise vacated; or it is no longer equitable that the judgment should have prospective application.
>
> (f) Any other reason justifying relief from the operation of the judgment.

In general, a trial court may set aside a final judgment under MCR 2.612(C)(1)(f) if (1) the reason justifying relief from the judgment does not fall under subsections a through e, (2) the substantial rights of the opposing party are not detrimentally affected, and (3) extraordinary

[5] The circuit court's order referred to "plaintiffs" in the plural, and did not distinguish between AAA Invest and Agboruche with regard to the right of reimbursement.

circumstances exist that require setting aside the judgment to achieve justice. *Heugel, supra* at 478-479. However, even if one or more of the bases under subsections a through e is present, a trial court may properly grant relief "when additional factors exist that persuade the court that injustice will result if the judgment is allowed to stand." *Id*. at 481.

Defendant has not filed a brief on appeal, and thus we do not have the benefit of response argument in this case. Nevertheless, we find no basis for sanctioning the foreclosure proceedings undertaken by AAA Invest absent any authority in the GPTA for a private entity to proceed with statutory foreclosure available to taxing governmental entities. That is, we conclude that under the GPTA for purposes of this procedure, only taxing governmental entitles may proceed with statutory foreclosure. Therefore, AAA Invest's judgment of foreclosure and judicial sale were based on an invalid proceeding, and the circuit court did not abuse its discretion in granting defendant's motion for relief from judgment under MCR 2.612(C). *In re Petition of Wayne Co Treasurer for Foreclosure*, 265 Mich App 285, 300; 698 NW2d 879 (2005).

A

Beginning in 1999, the Legislature enacted a series of revisions to the GPTA that replaced the longstanding process for the reversion of tax-delinquent property to the government.[6] Under the former process applicable to the delinquent 1998 property taxes in this case, the GPTA set forth a complex system in which the county foreclosed on tax-delinquent property by placing a tax lien on the property; the tax liens were sold to private purchasers, who subsequently could obtain a tax deed, and eventually, absolute title to the property absent timely redemption by the owner or an interested party.[7] Smith, *Foreclosure of real property tax liens*, 75 Mich B J 953, 953-955 (1996). Given the statutory timeframes for foreclosure and redemption at various stages of the process, the reversion process generally took about six years to complete. House Legislative Analysis, HB 4489, SB 488, SB 489, and SB 507, July 23, 1999, p 1.

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[6] Summer and winter tax payments are generally payable to the local unit of government on July 1 and December 1 respectively. Unpaid taxes are returned to the county treasurer as delinquent March 1 of the following year. Citizens Research Council of Michigan, *Delinquent property taxes as an impediment to development in Michigan*, Report No 325 (April 1999), p 2.

[7] The tax delinquency and reversion system under the GPTA is complex and highly technical, with detailed statutory provisions pertaining to each aspect of the process. A general discussion of the process under both the former and the revised provisions is necessary for purposes of this opinion, but further reference to the GPTA is advised for specific statutory mandates. See MCL 211.44 through MCL 211.157; see also Citizens Research Council of Michigan, *supra*, Report No 325; Smith, *Foreclosure of real property tax liens under Michigan's new foreclosure process*, 29 Mich Real Prop Rev 51 (2002); Rhoades, *Enforcement of property tax liens*, 26 Mich Real Prop Rev 131 (1999). Since the enactment of 1999 PA 123, various sections of GPTA have been amended; new provisions have been added, and other sections have been repealed, changing the effective dates of certain amendments. See e.g., MCL 211.140, repealed by 2001 PA 94, § 1, effective December 31, 2003 (although § 140 previously was repealed by 1999 PA 123, § 5, effective December 31, 2006, which itself was repealed by 2005 PA 183, § 1, effective October 20, 2005).

Under the former GPTA provisions, after two years and two months of delinquency, the county held a tax lien sale. Citizens Research Council of Michigan, *supra*, Report No 325, p 2. Relevant to this case, for taxes levied before January 1, 1999, the GPTA provided that a tax sale must be held by the county treasurer on the first Tuesday in May of each year, on property delinquent for taxes assessed in the third year preceding the sale or in a prior year. *Muskegon Area Rental Ass'n v City of Muskegon*, 244 Mich App 45, 50; 624 NW2d 496 (2000), rev'd in part on other grds 465 Mich 456 (2001); MCL 211.60. Accordingly, the tax lien sale for defendant's delinquent 1998 taxes occurred in May 2001, at which time AAA Invest purchased the tax lien.

Pursuant to MCL 211.74(1), a person with an interest in the property could redeem the property lost in tax foreclosure at any time before the first Tuesday of May in the year following the tax sale by paying the amount of the sale plus statutory interest to the county treasurer. *Ottaco, Inc v Kalport Development Co, Inc*, 239 Mich App 88, 90; 607 NW2d 403 (1999). If the property was not redeemed within the one-year period following the sale of the tax lien, the purchaser of the tax lien was entitled to a tax deed to the property.[8] *Ottaco, supra* at 90; see MCL 211.72. Once the tax deed was issued, the holder was required to comply with statutory notice requirements before taking possession of the property. *Ottaco, supra* at 90-91; see MCL 211.140 and MCL 211.141. Pursuant to §§ 140 and 141, the holder of the tax deed could obtain a writ of assistance for possession of the property only after expiration of the six-month period following proper notice and only if the property was not redeemed during that six-month period. *Equivest Ltd Partnership v Foster*, 253 Mich App 450, 453-454; 656 NW2d 369 (2002).

> An individual who obtains an interest in real property through a tax sale [] must perfect his title by notifying all parties that have a recorded interest in the property or that assert an ownership interest through open possession that the property has been sold for unpaid taxes. MCL 211.140(1). The notice must advise that the property may be reconveyed upon payment to the county treasurer of the redemption amount within six months after return of service of the notice. *Id*. Because this six-month period is the final redemption period, the statutory notice requirements must be strictly complied with because the tax sale proceedings serve to divest owners of their property interests. *Equivest Limited Partnership*, [*supra* at 453-454]; *Ottaco, supra* at 90-91. But the six-month period does not begin to run until notice is given. *Equivest, supra* at 454; *Ottaco, supra* at 91. The tax purchaser's right to enforce a tax title against an individual or entity entitled to notice under § 140 is "forever barred" if the tax title holder fails to make a bona fide attempt to give the required notice within five years to that individual or entity. MCL 211.73a; *Halabu v Behnke*, 213 Mich App 598, 604; 541 NW2d 285 (1995). [*Burkhardt v Bailey*, 260 Mich App 636, 647-648; 680 NW2d 453 (2004).]

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[8] The tax deed entitled the purchaser to collect all taxes paid plus a fifty percent penalty and other fees upon redemption. *Ottaco, supra* at 90 n 4.

In this case, in May 2003, defendant redeemed his property with respect to the 1998 tax delinquency. Under the former reversion system, if a party redeemed property, the tax title holder was required to deliver a release and quitclaim deed to the county treasurer, and the tax deed became void. *Id.* at 649; see also MCL 211.141.[9]

B

With the enactment of 1999 PA 123, the Legislature significantly changed Michigan's tax delinquency and reversion system:

> In 1999 the Michigan Legislature enacted the first major revisions of the real property tax foreclosure process under the General Property Tax Act ("GPTA") since the 1976 introduction of the notice and hearing requirements of section 131e of the Act. In 1999 PA 123 ("Act 123"), the [L]egislature almost entirely rewrote the foreclosure process. Act 123 is effective for taxes assessed in 1999 and later years, although county treasurers also had the option to include foreclosure of 1997 and 1998 tax liens in the new process. [Smith, *Foreclosure of real property tax liens under Michigan's new foreclosure process*, 29 Mich Real Prop Rev 51 (2002).]

Under the revised process, tax delinquent property is returned to the tax rolls in three years, about half the time required under the former system. House Legislative Analysis, HB 4489, SB 488, SB 489 and SB 507, July 23, 1999, pp 1-2. The shortened period was designed to strike the proper balance between owners' property rights and the need for redevelopment of blighted property by local units of government. *Id.*

Act 123 added sections 78-78p to the GPTA, setting forth a new system for reversion of tax delinquent property, which governed the delinquent 1999 taxes on defendant's property:

> There is no sale of delinquent tax liens under the new process. Rather, delinquent tax liens are forfeited to the county treasurer in March of the second year of delinquency and the tax lien is foreclosed at a circuit court hearing the following February at the end of the second year of delinquency, followed by a final twenty-one-day redemption period. The former process *started* with a tax sale in May of the third year of delinquency. The new process *ends in* March of the third year of delinquency, two months before the former process was getting started. [Smith, *supra*, 29 Mich Real Prop Rev 51, 51-52.]

Because of the shortened timeframe for forfeiture and foreclosure under the revised GPTA, defendant's property was still subject to redemption under the former system for the 1998 tax delinquency at the time it was foreclosed on by the county for the 1999 tax delinquency. The overlapping tax delinquencies in this case complicated the reversion process

[9] Section 141 was repealed, effective December 31, 2006. 2005 PA 183, § 2.

because the revised GPTA applicable to the 1999 taxes permits redemption for a period of only 21 days following the entry of the foreclosure judgment:

> Following forfeiture, property may be redeemed at any time before twenty-one days after entry of the foreclosure judgment by payment to the county treasurer of the total amount of delinquent taxes, interest, penalties and fees for which the property was forfeited, plus interest of 1.5% per month back to the date the taxes were returned delinquent and recording, service of process and notice fees. [Smith, *supra*, 29 Mich Real Prop Rev 51, 54.]

The revised GPTA incorporated no special provisions to protect tax lien purchasers who had outstanding liens from the former tax foreclosure process. *Id.* at 57. However, such buyers were entitled to notice of the forfeiture and foreclosure of properties on which they held liens. *Id.*; see MCL 211.78b, MCL 211.78c, and MCL 211.78f.

In this case, AAA Invest was notified of the impending 1999 tax foreclosure as the holder of the tax certificate from the 1998 tax lien sale. AAA Invest thereafter redeemed the 1999 tax delinquency by paying the amount necessary under the statute, $3,979.42, on March 25, 2002, to protect its interest in defendant's property based on its purchase of the 1998 tax lien. Had the property not been redeemed within 21 days of the entry of the foreclosure judgment, absolute title to the property would have vested in the county, and AAA Invest would have lost its interest in the property. MCL 211.78k(5).

> If tax lien holders do not redeem from the forfeiture and no other interested party redeems, the tax lien holders' interests are extinguished, along with most other interests, upon foreclosure and expiration of the redemption period.
>
> Persons who purchased 1998 tax liens at 2001 tax sales had to pay off any 1997 or 1999 tax liens in the forfeiture/foreclosure process prior to expiration of the twenty-one-day redemption period following entry of judgment or their 1998 tax liens were cancelled before they were even eligible to receive a deed for the 2001 tax sale. If a parcel is foreclosed for a 1997 or 1999 lien, the State Treasurer will not issue a tax deed for the 1998 tax lien purchased at the 2001 tax sale.
>
> Tax lien buyers who pay subsequent years' taxes to protect their tax liens *before* forfeiture receive a statutory lien for the amount paid to redeem the subsequent years' taxes pursuant to MCL 211.53(4). Tax lien buyers who redeem a parcel to protect their tax liens *after* forfeiture receive a statutory lien for the amount paid pursuant to MCL 211.78g(4).[10] [Smith, *supra*, 29 Mich Real Prop Rev 51, 57-58.]

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[10] Because of subsequent amendments to the GPTA, this subsection has been renumbered and is now MCL 211.78g(5).

Thus, under the revised tax reversion system, a person with a legal interest in the property, may redeem the property and acquire a statutory lien for the amount paid to redeem. MCL 211.78g(3)-(5).

> A person with a legal interest in property who redeems the property acquires no greater interest than what he or she would have had if the property had not forfeited. This is the same as under the former process.
>
> A person other than the owner who redeems property is entitled to a lien for the redemption amount. However, the lien has the same priority "as the existing lien, title, or interest.'' This is a change from the former process, where the redemption lien was a first lien. A lien for a redemption amount "*shall*" be recorded with the register of deeds within thirty days after redemption by the party entitled to the lien. [Smith, *supra*, 29 Mich Real Prop Rev 51, 54.]

If the property is redeemed, the county treasurer must issue a redemption certificate in quadruplicate, one copy of which is delivered to the person making the redemption payment, one of which is filed in the office of the county treasurer, and one of which is filed with the county register of deeds.[11] MCL 211.78g(6). "The county treasurer shall also make a note of the redemption certificate in the tax record kept in his or her office, with the name of the person making the final redemption payment, the date of the payment, and the amount paid. . . . A certificate and the entry of the certificate in the tax record by the county treasurer is prima facie evidence of a redemption payment in the courts of this state." *Id*.

C

As noted, in this case, defendant failed to pay the 1998 taxes on his real property, and on May 1, 2001, AAA Invest purchased a tax lien on the property at a public auction for $3,200.25. Defendant did not redeem the property within one year, and AAA Invest then obtained a tax deed to the property, entitling AAA Invest to absolute title in the property, subject to the six-month redemption period under MCL 211.140. On May 13, 2003, defendant redeemed the property, thereby voiding AAA Invest's tax deed. *Burkhardt, supra* at 649.

In the interim between the date AAA Invest purchased the 1998 tax lien and the date defendant redeemed the 1998 tax delinquency, defendant's property was forfeited to the county for delinquent 1999 property taxes, and a judgment of foreclosure was entered on March 10, 2002, under the revised GPTA provisions, which vested absolute title to the property in the county unless the 1999 tax delinquency was redeemed within 21 days. To protect its interest in the property, AAA Invest redeemed the property for the 1999 tax delinquency on March 25, 2002, pursuant to MCL 211.78g(5), which provides:

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[11] If the state is the foreclosing governmental unit, a fourth copy must be transmitted to the department of treasury. MCL 211.78g(6).

> If property is redeemed by a person with a legal interest as provided under subsection (3), the person redeeming does not acquire a title or interest in the property greater than that person would have had if the property had not been forfeited to the county treasurer, but *the person redeeming, other than the owner, is entitled to a lien for the amount paid to redeem the property in addition to any other lien or interest the person may have*, which shall be recorded within 30 days with the register of deeds by the person entitled to the lien. The lien acquired *shall have the same priority as the existing lien, title, or interest.* [Emphasis added.]

After defendant redeemed the property for the 1998 taxes, AAA Invest's tax deed was void and of no effect; however, AAA Invest still held a "redemption lien" with respect the 1999 tax delinquency paid by AAA Invest.[12]

AAA Invest argues on appeal, as it did before the circuit court, that because the lien obtained for the 1999 tax delinquency has the same priority as AAA Invest's existing title or interest, i.e., the 1998 tax lien, AAA Invest was entitled to seek judicial foreclosure and sale of defendant's property under the former provisions of the GPTA that pertained to governmental foreclosures, which were applicable to the 1998 tax delinquency. We disagree.

The fact that MCL 211.78g(5) gives AAA Invest's 1999 redemption lien the same *priority* as its existing title or interest does not entitle AAA Invest to foreclose the 1999 redemption lien under the statutory procedures applicable to government foreclosure of 1998 tax liens. "Priority" simply refers to the relative ranking of competing interests to property.[13] This case does not involve a *priority* dispute. We find no authority to support AAA Invest's claimed right to pursue statutory remedies for foreclosing a "tax lien" available to taxing entities under the former GPTA provisions. The payment of the delinquent 1999 taxes gave AAA Invest a statutory redemption lien for the amount paid, MCL 211.78g(5), not a "tax lien" subject to foreclosure under the former tax reversion system. A "tax lien" by definition is "[a] lien on real estate *in favor of a state or local government* which may be foreclosed for nonpayment of taxes." Black's Law Dictionary (6th edition) (emphasis added). Although a private party could acquire a tax lien through the government sale of tax liens under the former tax reversion system, 1999 PA 123 eliminated the sale of tax liens with respect to taxes levied after December 31, 1998.

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[12] Although a statutory notice issued by AAA Invest to defendant and Chase Manhattan indicated that AAA Invest had paid $3,200.25 for 1998 taxes and $3,979.42 for 1999 taxes, and that an amount of $10,769.51 was necessary to redeem the property, the county apparently permitted defendant to redeem the property by paying only the amount associated with the 1998 tax delinquency. According to defendant, it was Chase Manhattan, defendant's mortgagee, that actually paid the 1998 tax delinquency to redeem the property, and county officials at that time told Chase Manhattan that the 1999 taxes were paid.

[13] "Priority" is defined in relevant part as: "Precedence, going before. A legal preference or precedence. The relative ranking of competing claims to the same property." Black's Law Dictionary (6th edition).

MCL 211.78a(1). Thus, AAA Invest could not acquire a "tax lien" with respect to the 1999 tax delinquency.

AAA Invest and Agboruche argue that defendant incorrectly characterized AAA Invest's 1999 redemption lien as an unsecured debt that AAA Invest voluntarily paid[14] and that the circuit court erred in setting aside the judicial foreclosure and sale on the basis of defendant's argument and the court's conclusion that the 1999 redemption lien in and of itself did not lead to a judicial sale. Regardless whether defendant was correct concerning AAA Invest's limited recourse for enforcing its redemption lien, we concur with the circuit court's conclusion that the judicial foreclosure and sale was improper on the basis undertaken.[15]

As discussed above, AAA Invest could not properly proceed with the judicial foreclosure and sale in circuit court on the basis that it held a "tax lien" because it held a "redemption lien," not a "tax lien" under the GPTA. The judicial sale to Agboruche was therefore based on an invalid proceeding, which was a proper reason for setting aside the judgment. *In re Wayne Co Treasurer, supra* at 300.

D

The remaining question is whether the circuit court otherwise abused its discretion in setting aside the judgment under MCR 2.612(C)(1)(f). We find no abuse of discretion.

The circumstances of this case warrant invoking the court's "'grand reservoir of equitable power to do justice.'" *Heugel, supra* at 481 (citations omitted). Although AAA Invest and, later, Agboruche expended monies in the amount necessary to secure the property against the 1999 tax delinquency, the circuit court ordered that "Plaintiffs shall be reimbursed for the taxes that were paid, with interest, pursuant to statute." Thus, the parties presumably will be reimbursed in the same manner and to the same extent that they would have been reimbursed had

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[14] Defendant argued that as an unsecured debt, the redemption lien was subject to a sale on execution and a redemption period of one year under MCL 600.6062 , and therefore defendant's redemption would be timely.

[15] We express no opinion regarding the correct procedure for enforcing the redemption lien in this case, having determined only that the procedures adopted by AAA Invest are not supported under the GPTA provisions cited. It may be that the Legislature did not envision the circumstances presented in this case and, thus, no specific statutory provision governs the enforcement of a redemption lien standing alone or it may be that the redemption lien could have been enforced in conjunction with the 1998 tax deed redemption. However, these issues have not been raised or argued by the parties, and their resolution is unnecessary to our disposition.

defendant timely redeemed the property.[16] The substantial rights of the opposing party therefore are not detrimentally affected.[17] *Id.* at 478-479.

Finally, this case presents extraordinary circumstances that require setting aside the judgment to achieve justice. *Id.* at 479. It is undisputed that defendant resides in the property at issue, which he purchased in 1996. According to defendant's affidavit, the property is valued at approximately $180,000, he had invested in excess of $45,000 in the property, and continues to make monthly mortgage payments on the property, which were adjusted to include amounts for payment of delinquent taxes. Although defendant, through his mortgagee, intended to and attempted to redeem the property with respect to delinquent taxes owing, apparent confusion over the proper procedures for enforcing and redeeming the redemption lien held by AAA Invest under the newly revised GPTA, resulted in continued delinquency of the 1999 taxes despite defendant's redemption of the 1998 tax deed.[18] The court concluded that these circumstances warranted setting aside the judgment. We find no abuse of discretion.

Although the revised GPTA no longer requires strict compliance with statutory notice provisions as long as minimum due process is afforded, *In re Wayne Co Treasurer*, *supra* at 296, the policy of the law nevertheless favors redemption of property sold for taxes. *Geraldine v Miller*, 322 Mich 85, 96; 33 NW2d 672 (1948). The trial court did not err in denying Agboruche's motion for reconsideration and granting defendant's motion to dismiss.

Affirmed.

/s/ Donald S. Owens
/s/ Janet T. Neff

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[16] Defendant tendered payment to AAA Invest to redeem the property by a cashiers check for $3,979.42 on May 3, 2005; however, AAA Invest rejected the check on the ground that AAA Invest no longer held an interest in the property, which had been purchased by Agboruche on May 11, 2004.

[17] We recognize that Agboruche stood to gain significantly from his $6,730.87 purchase of defendant's property, which was allegedly worth approximately $180,000. However, that Agboruche is denied this gain based on an invalid proceeding does not affect his substantial rights since the purchase of tax delinquent property is generally subject to rightful claims by the owner, particularly where, as here, the owner was in actual open possession of the property where he resided and Agboruche sought a writ of assistance to take possession from defendant.

[18] A question raised by the facts of this case, but left unanswered, is why the statutory requirements under the revised GPTA for the county treasurer's issuance and filing of a redemption certificate and written notation of the payor, date paid, and amount of payment, MCL 211.78g(6), did not operate to preclude defendant's redemption of the 1998 tax lien without payment of the 1999 redemption lien, which had the same priority as the 1998 tax lien, thereby avoiding the legal confusion resulting from the independent foreclosure proceeding pursued in this case for only the 1999 redemption lien. However, this matter was not addressed by the parties or the circuit court and is beyond the purview of this appeal since it does not affect our ultimate disposition.